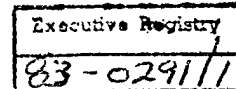




THE SECRETARY OF COMMERCE
Washington, D.C. 20230

JAN 17 1983



Not referred to DOC. Waiver applies.

MEMORANDUM FOR Members of the Export Administration Review Board

SUBJECT: The Administration's Response to Senator Garn's
Proposal for a New "Office of Strategic Trade"

On February 3, Senator Garn has scheduled a hearing on his proposal to create a new Office of Strategic Trade (OST). The Commerce Department has been asked to testify at that hearing. We believe the creation of this new bureaucracy would be costly, unnecessary and counterproductive. Without addressing other aspects of the soon-to-be-reintroduced Bill 1/, we recommend that the Administration strongly oppose the organizational changes proposed in the Garn and similar Bills.

I. Functions and structure of the proposed Office of Strategic Trade.

- o The Bill would create a new independent executive agency headed by a Director who would: 1) be a presidential appointee requiring Senate confirmation; 2) serve a four year term; 3) become a member of the NSC; and 4) chair the Interagency Advisory Committee on Export Policy (ACEP).
- o The OST would absorb: 1) all the primary export control functions of the Commerce Department, including licensing and enforcement and 2) all functions of the State Department's Office of Munitions Control.
- o The proposed OST is illustrated on the attached organizational chart.

1/ Senator Garn introduced S 2837 "Office of Strategic Trade Act of 1982" on August 13, 1982 in the last Congress. Garn's staff informs us that the bill will be reintroduced very shortly. Similarly, in the House, the Byron Bill, would remove the National Security export control functions from Commerce and shift them to DOD.

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II. Garn's rationale for proposing the OST.

- o The Commerce Department does not devote sufficient resources to the export control area. Because of this lack of resources, licensing delays and mistakes and technology leakages to the Soviet Bloc, are occurring. Garn relies on the June 11, 1982 Inspector General Report to highlight problems in the compliance area.
- o Export controls should not be administered by the Commerce Department whose constituency is the business community and whose primary mission is export promotion.
- o Creation of this new executive agency, with it's director as a member of the NSC, would give the export control area the high profile it deserves and needs in order to attract highly qualified employees.

III. The Administration should oppose creation of the Office of Strategic Trade. A restructuring of the current shared responsibilities in the export control area among Commerce and other agencies would be unwise.

- o The establishment of another bureaucracy would be costly and would not demonstrably increase efficiencies over the existing structure for administering export controls and instead may impair the process.
- o Maintaining the current export control structure by which Commerce, in consultation with DOD, State and other agencies when appropriate, administers export controls, provides the necessary balance among the security, political and economic considerations involved in export control decisions.
- o The House in 1979, when considering the current Export Administration Act, expressly rejected any attempt to change this balance of responsibilities among the departments because to do so "...would jeopardize one or more of the major goals of the Act to the detriment of overall U.S. interest." (House Committee on Foreign Relations Report at p. 6).
- o The proposal for an OST or any similar organizational change was strongly opposed by all members of the business community who spoke on the issue at the recently concluded joint President's Export Council/Department of Commerce hearings held in six cities around the United States.

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- o Effective interagency mechanisms exist for issue resolution in which all interested agencies participate: the Operating Committee (OC), the sub-ACEP, the ACEP and the EARB. This structure provides for the possible escalation from office to cabinet level if necessary to resolve export control issues. The creation of a new Office of Strategic Trade would not eliminate the need for such an interagency process but would merely add another layer of bureaucracy.
- o The Bill implies that the new OST could better protect our national security than the existing system. This conclusion is unfounded. DOD now has authority to review all Bloc cases and to prevent their approval in the absence of Presidential review. Moreover, DOD has an equal say in what items are controlled for national security purposes; disagreements are escalated to the President. The number of differences between Commerce and DOD in administering national security controls is quite small. For example, in fiscal 1982, of the nearly 2,000 national security cases which DOD reviewed, fewer than 200 required interagency discussions to resolve agency differences. Of these, fewer than 20 cases were referred to the Assistant Secretary level or higher.
- o Export control officials are able to draw on the expertise of other parts of Commerce to support their efforts. For example, the Foreign Commercial Service, with its worldwide network, provides needed enforcement, licensing and foreign availability information. Also, the International Economic Policy section assists in evaluating the economic impact of export controls.
- o Independent agencies such as the proposed Office of Strategic Trade are much more susceptible to Congressional intervention and control.
- o Since the beginning of the Administration the Commerce Department has made significant improvements in its export control program:
 - 1. The backlog of cases, which had been at a level of approximately 2,000 at the start of 1981, has been virtually eliminated;

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2. The positions allocated to Export Administration rose 24% and the budget rose by 2/3 from 1980 to 1983. Currently 25 full time technical licensing professionals are being hired;
 3. A new Office of Export Enforcement headed by a Deputy Assistant Secretary was created within the last six months. The enforcement budget was increased from \$1.7 million in 1980 to nearly \$4.6 million in 1983. Furthermore, the number of employees authorized in this area has increased 126%. For example, more than 30 additional criminal investigators and intelligence specialists have been added in recent months;
 4. The former Acting Commissioner of Customs was hired in a newly created position of Deputy Assistant Secretary for Trade Administration. This new principal Deputy Assistant Secretary is tasked with improving and helping to oversee management of the Trade Administration area thereby permitting the Assistant Secretary to devote more time to national security related issues;
 5. A new automated computer tracking system to monitor license applications and to support expanded enforcement programs was very recently put on line.
 6. Regional enforcement offices in Los Angeles and San Francisco were recently established.
- o The claimed deficiencies noted by Garn in the June 1982 Inspector General's Report have been remedied by the subsequent major organizational realignment and resource dedications outlined above. These deficiencies were a legacy inherited from the prior Administration.
 - o The Bill would unwisely remove from the State Department it's Office of Munitions Control.

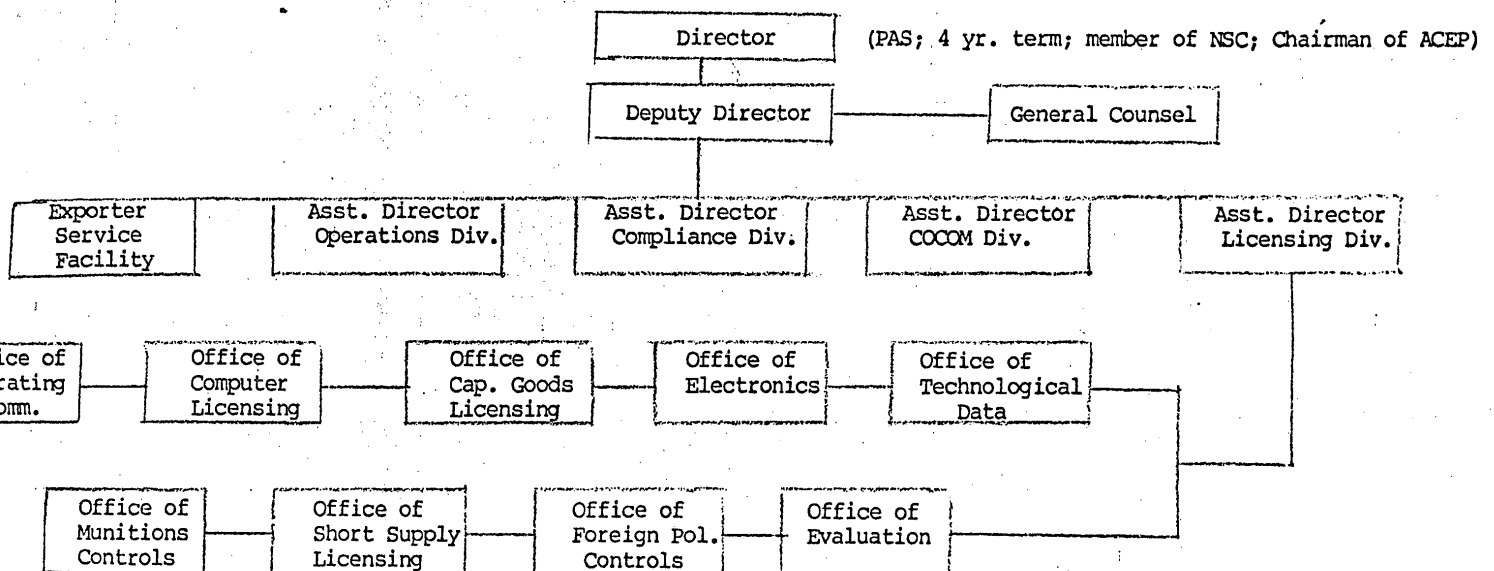
III. Recommendation

That the Administration oppose congressional attempts to restructure the current export administration functions shared by Commerce, DOD, Treasury and State. Accordingly, the Administration should oppose the creation of the proposed Office of Strategic Trade.


Secretary of Commerce

GARN BILL SECTION 5

OFFICE OF STRATEGIC TRADE
(Independent Executive Agency)



GARN BILL SECTION 7

Establishes the National Security Control Agency
Within the Office of the Under Secretary of Defense for Policy